



MEMORANDUM

Agenda Item No. 1(D) 1

TO:	Honorable Chairperson and Members Board of County Commissioners	DATE:	October 7, 2003
FROM:	George M. Burgess County Manager	SUBJECT	Sunset Review of County Boards for 2002 – Fire Prevention and Safety Appeals Board

RECOMMENDATION

It is recommended that the Board approve the continuation of the Fire Prevention and Safety Appeals Board.

BACKGROUND

The Chairperson and its members approved the Annual Sunset Report at its May 29, 2003 meeting, and staff concurs.

ANNUAL SUNSET REVIEW OF MIAMI-DADE COUNTY BOARDS
2002

I. GENERAL INFORMATION

1. Board reporting:

Fire Prevention and Safety Appeals Board

2. Indicate number of board members, terms of office, and number of vacancies:

There are 13 board member positions with three-year terms of office. There are currently 10 members serving, 2 appointed (cannot serve until paperwork is completed) and 1 vacancy.

3. Identify number of meetings and member's attendance (last 12 months):

The Board is scheduled to meet every other month based on the scheduling of appeals. The Board met 4 times during the last 12 months. Meetings were held on March 30, May 30, October 3, and November 28, 2002. Attendance was 9, 9, 9 and 7 respectively. Meetings of January 31 and July 25, 2002 were cancelled because there were no appeals to be heard. The attendance reports for 2002 and 2001 are attached.

4. What is the source of your funding? Funds come from the Miami-Dade Fire Rescue budget.
5. Attach a copy of the ordinance creating the board and its bylaws or standard operating procedures, if any. A copy of the Code of Miami-Dade County Section 14-46 is attached, which outlines the Board's creation, purpose, duties, and responsibilities.
6. A copy of the minutes approving the Sunset Review questionnaire is attached hereto, including a vote of the membership.
7. A disc, saved as ASCII or Rich Text formats, of the County Manager's memorandum to the Board of County Commissioners is attached herewith.

II. EVALUATION CRITERIA

1. Is the board serving the purpose for which it was created: Yes, in accordance with the Code of Miami-Dade County, Section 14-46. A copy of the Code is attached.

Annual Review of Miami-Dade County Boards

2. Is the board serving current community needs? Yes, as defined by the Code of Miami-Dade County Florida, the South Florida Fire Prevention Code, and other relevant ordinances.
3. What are the board's major accomplishments?
 - a. Last 12 months: The Board reviewed all scheduled appeals and made significant progress with appeals including, requirement for installation of a fire alarm system in an industrial occupancy in Miami-Dade County; location of fuel dispensing in relation to a generator at a municipal government center in Miami-Dade County; sprinkler protection under combustible stairs in a business occupancy in Miami-Dade County; whether a permit may be requested to open a business that stores and sells fireworks in Miami-Dade County; occupancy load requirements, fire sprinkler and separation requirements in a restaurant in the City of Hialeah; requirement to provide two means of egress from a second level assembly area in a business occupancy in Miami-Dade County; and other life safety concerns.
 - b. Since established: The Board is comprised of a group of professionals from diverse backgrounds with an exceptional level of expertise charged with and fulfilling the responsibility to consistently interpret the South Florida Fire Prevention Code and the Life Safety Code for the entire Miami-Dade County community, including all municipalities.
4. Is there any other board, either public or private, which would better serve the function of this board? No, the Fire Prevention and Safety Appeals Board has quasi-judicial responsibilities and duties specifically mandated by Florida Statutes. County Code Chapter 14 prohibits any other board or body from ruling on issues within the jurisdiction of the Fire Prevention and Safety Appeals Board.
5. Should the ordinance creating the board be amended to better enable the board to serve the purpose for which it was created? No.
6. Should the board's membership requirements be modified? No.
7. What is the operating cost of the board, both direct and indirect (last County fiscal year and current County fiscal year)? Approximately \$2,100 each year.

Annual Review of Miami-Dade County Boards

8. Describe the board's performance measures developed to determine its own effectiveness in achieving its stated goals. The South Florida Fire Prevention Code is intended to provide minimum standards and performance measures with respect to fire prevention and life safety standards. The Board interprets the Code based on these standards. To date, no decision rendered by the Board has been reversed. One Petition for Writ of Certiorari was filed and later was followed by a Joint Motion to Dismiss in the Appellate Division of the Eleventh Judicial Circuit.

CLERK OF THE BOARD - BOARD ATTENDANCE RECORD Fire Prevention and Safety Appeals Board

Name	Date of Meetings					
	01/25/2001	03/29/2001	05/31/2001 Cancelled	07/26/2001	09/21/2001 Cancelled	11/29/01
Ulyses S. Banks	P	P	-	E	-	P
Joseph Truglio	P	P	-	P	-	P
Angel de la Fuente	E	P	-	E	-	P
Lloyd Howard	P	P	-	P	-	E
Armando Piedra	P	P	-	P	-	P
Raymond McDonald	P	P	-	P	-	P
James Haney	E	- Needs paperwork completion	-	-	-	-
Maria Figueroa-Rodriguez	-	P	-	P	-	P
Lernardo Stringer	P	P	-	P	-	P
Esteban Juncadella	P	P	-	P	-	P
Lawrence Cohan	P	P	-	P	-	P
Vacant	-	-	-	-	-	-
Ricardo Gonzalez	P	P	-	P	-	P

Key
A – Absent, not excused
P – Present
E – Excused

CLERK OF THE BOARD - BOARD ATTENDANCE RECORD Fire Prevention and Safety Appeals Board

Name	Date of Meetings						
	01/31/2002 Cancelled	03/30/2002	05/30/2002	07/25/2002 Cancelled	10/03/2002	11/28/2002	12/03/2002 Emergency Meeting Cancelled
Ulyses S. Banks	-	P	E	-	P	E	-
Joseph Truglio	-	P	P	-	E	P	-
Angel de la Fuente	-	P	P	-	P	P	-
Lloyd Howard	-	P	P	-	P	A	-
Armando Piedra	-	P	P	-	P	P	-
Raymond McDonald	-	P	P	-	P	P	-
James Haney (appointed but not completed paperwork)	-	-	-	-	-	-	-
Maria Figueroa- Rodriguez	-	P	P	-	P	P	-
Leronardo Stringer	-	E	P	-	P	E	-
Esteban Juncadella	-	P	Resigned	-	-	-	-
Lawrence Cohan	-	P	P	-	P	P	-
Vacant	-	-	-	-	-	-	-
Ricardo Gonzalez	-	E	P	-	P	P	-

Key

A - Absent
P - Present
E - Excused

Sec. 14-46. Dade County Fire Prevention and Safety Appeals Board.

(A) *Established.* There is hereby created and established the Dade County Fire Prevention and Safety Appeals Board.

(B) *Membership.* This Board shall consist of thirteen (13) members appointed by the County Commission. In order to secure representative membership upon the Board, the Commission shall appoint one (1) architect, one (1) engineer, one (1) property manager, one (1) representative from the fuel industry, one (1) representative from the fire insurance industry, one (1) licensed general contractor possessing a current certificate of competency, two (2) persons who are serving different jurisdictions in the fire fighting service of such jurisdictions, the County Manager or his designee, one (1) representative of the Dade County League of Cities, Inc., one (1) safety engineer certified by a professional safety engineering society, one (1) city or county administrator, and one (1) educator who has expertise in the development of a fire science curriculum. Three (3) members shall be appointed for a term of one (1) year, three (3) members shall be appointed for a term of two (2) years, and three (3) members shall be appointed for a term of three (3) years. Thereafter, all members shall be appointed for a term of three (3) years.

(1) When the jurisdiction of the Dade County Fire Prevention and Safety Appeals Board is exercised pursuant to Section 14-46(D)(2) of the Code of Metropolitan Dade County, Florida, with respect to those duties and responsibilities of the local administrative Board specifically described in Section 553.73(8)(c), Florida Statutes, as amended from time to time, the membership of the Board shall consist of the eleven (11) members set forth in Section 14-46(B) above as well as the following eleven (11) members of the Dade County Board of Rules and Appeals who shall be designated by the Chairman of the Dade County Board of Rules and Appeals:

- _____ (i) One (1) nonprofessional person;
- _____ (ii) Two (2) representatives of the fire service;
- _____ (iii) One (1) master plumber;
- _____ (iv) One (1) mechanical engineer;
- _____ (v) One (1) master electrician;
- _____ (vi) One (1) structural engineer;
- _____ (vii) One (1) developer;
- _____ (viii) Two (2) general contractors;
- _____ (ix) One (1) architect.

The aforesaid persons in (i) through (ix) shall be voting ex officio members of the Dade County Fire Prevention and Safety Appeals Board only when the jurisdiction of the Board is exercised as set forth hereinabove for those duties and responsibilities set forth in Section 553.73(8)(c), Florida Statutes, as amended from time to time. Service on the Dade County Fire Prevention and Safety Appeals Board by members of the Dade County Board of Rules and Appeals ex officio as set forth above shall not be deemed to be service on two (2) County Boards simultaneously for the purposes of Section 2-11.38 of the Code of Metropolitan Dade County, Florida.

(C) *Organization of the Board; quorum; Secretary.* The members of the Board shall elect a chairperson and such other officers as may be deemed necessary or desirable, all of whom shall serve at the will of the Board. A majority vote of the members present shall be necessary to take any action. Seven (7) members of the Board shall constitute a quorum necessary to hold a meeting and take any action. The Director of the Metropolitan Dade County Fire Department or his designee shall be Secretary of the Board and shall be responsible for the custody of all minutes and records of the Board. The Secretary of the Board shall not be entitled to vote on any matter before the Board by reason of holding the office of Secretary. The Chairperson or his designee may call meetings of the Board; seven (7) members may call a meeting upon signing a written notice; and the Board at any meeting may call meetings for any future dates. Minutes shall be kept of all meetings of the Board.

(1) When the jurisdiction of the Dade County Fire Prevention and Safety Appeals Board is exercised as set forth in (B)(1) above: A majority vote of the twenty-two (22) members present shall be necessary to take any action; the presence of twelve (12) of the twenty-two (22) members shall constitute a quorum necessary to hold a meeting and take any action; and twelve (12) members may call a meeting upon signing a written notice. In all other respects the organization of the Dade County Fire Prevention and Safety Appeals Board shall remain the same as set forth in (C) above.

[(2) Reserved.]

(D) *Duties and powers of the Dade County Fire Prevention and Safety Appeals Board.* The Dade County Fire Prevention and Safety Appeals Board shall have the following duties, functions, powers, and responsibilities:

(1) To exclusively hear and determine appeals by any person aggrieved by any action or decision of any fire official of any jurisdiction in Dade County, Florida, with respect to this article, the South Florida Fire Prevention Code, or any municipal ordinance, code, or regulation which regulates fire prevention or fire safety. Notwithstanding any provision of the Code of Metropolitan Dade County, Florida, the South Florida Fire Prevention Code, any municipal ordinance, or any other County ordinance, no other County or municipal officer, agent, employee or Board, except as provided for code enforcement by Chapter 162, Florida Statutes, or by Chapter 8CC of the Code of Metropolitan Dade County, Florida, may hear or determine any matter which the Dade County Fire Prevention and Safety Appeals Board has the power to hear and determine pursuant to this subsection. The Board shall have the power and authority to affirm, modify, or reverse the action or decision which was appealed.

(2) To exclusively perform the duties and responsibilities of the local administrative Board described in Section 553.73(8)(b) and Section 553.73(8)(c), Florida Statutes, as all of same may be amended from time to time. Notwithstanding any provision of the Code of Metropolitan Dade County, Florida, the South Florida Fire Prevention Code, any municipal ordinance, or any other County ordinance, no other County or municipal officer, agent, employee or Board, may hear or determine any matter which the Dade County Fire Prevention and Safety Appeals Board has the power to hear and determine pursuant to this subsection. The Board shall have the power and authority to adopt alternatives and resolve conflicts as provided by the aforesaid provisions of Florida law, as amended from time to time.

(3) To exclusively hear and determine appeals by any person aggrieved by the decisions or actions of the chief fire official, or his designee, of any jurisdiction in Dade County, Florida, with respect to existing buildings as provided by Section 633.025(8), Florida Statutes, as amended from time to time. Notwithstanding any provision of the Code of Metropolitan Dade County, Florida, the South Florida Fire Prevention Code, any municipal ordinance, or any other County ordinance, no other County or municipal officer, agent, employee or Board, may hear or determine any matter which the Dade County Fire Prevention and Safety Appeals Board has the power to hear and determine pursuant to this subsection. The Board shall have the power and authority to affirm, modify, or reverse the action of decision which was appealed.

(4) To exclusively perform the duties of the local authority as set forth in Section 633.022(2)(b), Florida Statutes, as amended from time to time, by authorizing alternatives to the uniform fire safety standards as set forth in Section 633.022(2)(b), Florida Statutes, as amended from time to time. Notwithstanding any provision of the Code of Metropolitan Dade County, Florida, the South Florida Fire Prevention Code, any municipal ordinance, or any other County ordinance, no other County or municipal officer, agent, employee or Board, may hear or determine any matter which the Dade County Fire Prevention and Safety Appeals Board has the power to hear and determine pursuant to this subsection. The Board shall have the power and authority to adopt alternatives as provided by the aforesaid provision of Florida law, as amended from time to time.

(5) To exclusively perform the duties of all jurisdictions with fire safety responsibilities in Dade County, Florida, as set forth in Section 633.025(5), Florida Statutes, as amended from time to time, by establishing alternative requirements to the requirements of this article, the South Florida Fire Prevention Code, or other more stringent fire safety standards adopted by a municipality, as set forth in Section 633.025(5), Florida Statutes, as same may be amended from time to time. Notwithstanding any provision of the Code of Metropolitan Dade County, Florida, the South Florida Fire Prevention Code, any municipal ordinance, or any other County ordinance, no other County or municipal officer, agent, employee or Board, may hear or determine any matter which the Dade County Fire Prevention and Safety Appeals Board has the power to hear and determine pursuant to this subsection. The Board shall have the power

and authority to adopt alternative requirements as provided by the aforesaid provision of Florida law, as amended from time to time.

(6) To exclusively hear and determine appeals by any person aggrieved by the actions or decisions of the South Florida Fire Prevention Code Enforcement Officer established by this article, as amended from time to time. Notwithstanding any provision of the Code of Metropolitan Dade County, Florida, the South Florida Fire Prevention Code, any municipal ordinance, or any other County ordinance, no other County or municipal officer, agent, employee or Board, may hear or determine any matter which the Dade County Fire Prevention and Safety Appeals Board has the power to hear and determine pursuant to this subsection. The Board shall have the power and authority to affirm, modify, or reverse the action or decision which was appealed.

(7) Upon the request of any chief fire official or his designee of any jurisdiction in Dade County, Florida, to render advice to the requesting party on any fire safety or fire prevention matters in Dade County, Florida.

(8) To exclusively hear and determine, after notice to municipality, whether or not fire safety standards adopted by a municipality are more stringent than the fire safety standards set forth in this article and the South Florida Fire Prevention Code, as all of same are amended from time to time. Notwithstanding any provision of the Code of Metropolitan Dade County, Florida, the South Florida Fire Prevention Code, any municipal ordinance, or any other County ordinance, no other County or municipal officer, agent, employee or Board, may hear or determine any matter which the Dade County Fire Prevention and Safety Appeals Board has the power to hear and determine pursuant to this subsection. The Board shall have the power and authority to order the chief fire official, or his designee, of the municipality or the South Florida Fire Prevention Code Enforcement Officer, or both, to enforce the fire safety standards which are the most stringent.

(9) To exclusively hear and determine, after notice of the affected County department or County Board, whether or not a provision of the Code of Metropolitan Dade County, Florida, other than the South Florida Building Code, conflicts with the provisions of this article or the South Florida Fire Prevention Code, as all of same may be amended from time to time, and, if such conflict exists, to determine which provision established the most stringent standard. Notwithstanding any provision of the Code of Metropolitan Dade County, Florida, the South Florida Fire Prevention Code, any municipal ordinance, or any other County ordinance, no other County or municipal officer, agent, employee or Board, may hear and determine any matter which the Dade County Fire Prevention and Safety Appeals Board has the power to hear and determine pursuant to this subsection. The Board shall have the power and authority to order the chief fire officials, or their designees, of all jurisdiction in Dade County, Florida, and the South Florida Fire Prevention Code Enforcement Officer, to enforce the fire safety standards which are the most stringent.

(10) Upon the request of the Board of County Commissioners, to render advice to the Board of County Commissioners or such other persons as the Board of County Commissioners may direct, on any fire prevention or fire safety matters in Dade County, Florida.

(11) To issue subpoenas to compel the presence of a witness or documents or other items at any proceeding of the Dade County Fire Prevention and Safety Appeals Board authorized under this article or the South Florida Fire Prevention Code, as all of same may be amended from time to time.

(12) To adopt, promulgate, amend and rescind such rules of procedure and evidence as may be necessary to exercise the Board's authority, provided, however, that no such rules shall conflict with the provisions of this article or the South Florida Fire Prevention Code, as all of same may be amended from time to time.

(13) The powers enumerated in this section shall be in addition to and not a limitation of or in derogation of any other powers granted to the Dade County Fire Prevention and Safety Appeals Board by any other provision of this article, the South Florida Fire Prevention Code, or by State law, rule or regulation, as all of same may be amended from time to time. Notwithstanding any provision of the Code of Metropolitan Dade County, Florida, the South Florida Fire Prevention Code, any municipal ordinance or any other County ordinance, except as provided in subsection (1) herein, no other County or municipal officer, agent, employee or Board shall exercise any of the powers granted to the Dade County Fire Prevention and Safety Appeals Board by this article, the South Florida Fire Prevention Code or by State law, rule, or regulation, as all of same may be amended from time to time.

(14) To designate one (1) or more persons to be members of one (1) or more technical advisory panels to advise the Dade County Fire Prevention and Safety Appeals Board on technical matters related to fire prevention or fire safety. The members of such panels shall be persons technically skilled and qualified to render advice on particular matters of fire prevention or fire safety pending before the Board. The members shall serve at the will of the Board and shall furnish advice and information of a technical nature to the Board for so long a period of time as the Board may request it. All such advice and information given by the panel or any member thereof shall be in the form of testimony either in person or by deposition before the Board at a regularly scheduled meeting and subject to cross-examination at the deposition and meeting by any interested party. The members of the panels shall not be deemed County officers or employees. Members of the panels may be compensated by the County.

(15) To require and administer oaths or affirmations to witnesses in any proceeding of the Board.

(Ord. No. 87-89, § 3, 12-15-87; Ord. No. 94-7, § 1, 1-18-94)

Annotation--CAO 76-39.

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The 2002 Florida Statutes

Title XXXVII
INSURANCEChapter 633
FIRE PREVENTION AND CONTROL[View Entire Chapter](#)

633.0215 Florida Fire Prevention Code.--

(1) The State Fire Marshal shall adopt, by rule pursuant to ss. 120.536(1) and 120.54, the Florida Fire Prevention Code which shall contain or incorporate by reference all firesafety laws and rules that pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities and the enforcement of such firesafety laws and rules. The State Fire Marshal shall adopt a new edition of the Florida Fire Prevention Code every third year.

(2) The State Fire Marshal shall adopt the National Fire Protection Association's Standard 1, Fire Prevention Code but shall not adopt a building, mechanical, or plumbing code. The State Fire Marshal shall adopt the Life Safety Code, Pamphlet 101, current editions, by reference. The State Fire Marshal may modify the selected codes and standards as needed to accommodate the specific needs of the state. Standards or criteria in the selected codes shall be similarly incorporated by reference. The State Fire Marshal shall incorporate within sections of the Florida Fire Prevention Code provisions that address uniform firesafety standards as established in s. 633.022. The State Fire Marshal shall incorporate within sections of the Florida Fire Prevention Code provisions addressing regional and local concerns and variations.

(3) No later than 180 days before the triennial adoption of the Florida Fire Prevention Code, the State Fire Marshal shall notify each municipal, county, and special district fire department of the triennial code adoption and steps necessary for local amendments to be included within the code. No later than 120 days before the triennial adoption of the Florida Fire Prevention Code, each local jurisdiction shall provide the State Fire Marshal with copies of its local fire code amendments. The State Fire Marshal has the option to process local fire code amendments that are received less than 120 days before the adoption date of the Florida Fire Prevention Code.

(a) The State Fire Marshal shall review or cause the review of local amendments to determine:

1. If the local amendment should be adopted as a statewide provision;
2. That the local amendment does not provide a lesser degree of lifesafety than the code otherwise provides; and
3. That the local amendment does not reference a different edition of the national fire codes or other national standard than the edition provided or referenced in the uniform or minimum firesafety codes adopted by the State Fire Marshal or prescribed by statute.

(b) Any local amendment to the Florida Fire Prevention Code adopted by a local government shall be effective only until the adoption of the new edition of the Florida Fire Prevention Code, which shall be every third year. At such time, the State Fire Marshal shall adopt such amendment as part of the Florida Fire Prevention Code or rescind the amendment. The State Fire Marshal shall immediately notify the respective local government of the rescission of the amendment and the reason for the rescission. After receiving such notice, the respective local government may readopt the rescinded amendment. Incorporation of local amendments as regional and local concerns and variations shall be considered as adoption of an amendment pursuant to this ¹part.

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(c) Notwithstanding other state or local building and construction code laws to the contrary, locally adopted fire code requirements that were in existence on the effective date of this section shall be deemed local variations of the Florida Fire Prevention Code until the State Fire Marshal takes action to adopt as a statewide firesafety code requirement or rescind such requirements as provided herein, and such action shall take place no later than January 1, 2002.

(4) The State Fire Marshal shall update, by rule adopted pursuant to ss. 120.536(1) and 120.54, the Florida Fire Prevention Code every 3 years. Once initially adopted and subsequently updated, the Florida Fire Prevention Code and the Life Safety Code shall be adopted for use statewide without adoptions by local governments. When updating the Florida Fire Prevention Code and the most recent edition of the Life Safety Code, the State Fire Marshal shall consider changes made by the national model fire codes incorporated into the Florida Fire Prevention Code, the State Fire Marshal's own interpretations, declaratory statements, appellate decisions, and approved statewide and local technical amendments.

(5) The State Fire Marshal may approve technical amendments notwithstanding the 3-year update cycle of the Florida Fire Prevention Code upon finding that a threat to life exists that would warrant such action, subject to chapter 120.

(6) The Florida Fire Prevention Code does not apply to, and no code enforcement action shall be brought with respect to, zoning requirements or land use requirements. Additionally, a local code enforcement agency may not administer or enforce the Florida Fire Prevention Code to prevent the siting of any publicly owned facility, including, but not limited to, correctional facilities, juvenile justice facilities, or state universities, community colleges, or public education facilities. This section shall not be construed to prohibit local government from imposing built-in fire protection systems or fire-related infrastructure requirements needed to properly protect the intended facility.

(7) Any local amendment adopted by a local government must strengthen the requirements of the minimum firesafety code.

(8) Within 30 days after a local government adopts a local amendment, the local government must transmit the amendment to the Florida Building Commission and the State Fire Marshal.

(9) The State Fire Marshal shall make rules that implement this section and ss. 633.01 and 633.025 for the purpose of accomplishing the objectives set forth in those sections.

(10) Notwithstanding other provisions of this chapter, if a county or a municipality within that county adopts an ordinance providing for a local amendment to the Florida Fire Prevention Code and that amendment provides a higher level of protection to the public than the level specified in the Florida Fire Prevention Code, the local amendment becomes effective without approval of the State Fire Marshal and is not rescinded pursuant to the provisions of this section, provided that the ordinance meets one or more of the following criteria:

(a) The local authority has adopted, by ordinance, a fire service facilities and operation plan that outlines goals and objectives for related equipment, personnel, and capital improvement needs of the local authority related to the specific amendment for the next 5 years;

(b) The local authority has adopted, by ordinance, a provision requiring proportionate reduction in, or rebate or waivers of, impact or other fees or assessments levied on buildings that are built or modified in compliance with the more stringent firesafety standards required by the local amendment; or

(c) The local authority has adopted, by ordinance, a growth management plan that requires buildings and structures to be equipped with more stringent firesafety requirements required by the local amendment when these firesafety requirements are used as the basis for planning infrastructure development, uses, or housing densities.

Except as provided in s. 633.022, the local appeals process shall be the venue if there is a dispute

between parties affected by the provisions of the more stringent local firesafety amendment adopted as part of the Florida Fire Prevention Code pursuant to the authority in this subsection. Local amendments adopted pursuant to this subsection shall be deemed local or regional variations and published as such in the Florida Fire Prevention Code. The act of publishing locally adopted firesafety amendments to the Florida Fire Prevention Code shall not be construed to mean that the State Fire Marshal approves or denies the authenticity or appropriateness of the locally adopted firesafety provision, and the burden of protecting the local fire safety amendment remains solely with the adopting local governmental authority.

History.--s. 58, ch. 98-287; ss. 102, 103, ch. 2000-141; s. 43, ch. 2001-186.

¹Note.--Chapter 633 is not divided into parts.

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MIAMI-DADE COUNTY
FIRE PREVENTION AND SAFETY APPEALS BOARD
MEETING MINUTES

MAY 29, 2003

The Fire Prevention and Safety Appeals Board meeting was held on Thursday, May 29, 2003, in the Auditorium of the Miami-Dade Fire Rescue Department, 9300 N.W. 41 Street, Miami, Florida.

Members Present	L. Cohan R. McDonald A. Piedra L. Stringer	R. Gonzalez J. Truglio M. Figueroa-Rodriguez
Members Not Present	U. Banks	A. delaFuente
Member Resigned	L. Howard	
Staff Present	S. Gilmore D. Baker	P. Tell

The meeting was called to order by Chairman Cohan. Welcome was extended to Mr. Monge.

The roll call was taken. Mr. Piedra arrived at 9:35 AM.

There was discussion of Lloyd Howard's resignation. There was a unanimous vote to present a plaque. The "sample wording" was unanimously accepted with condition of proper dating. It will be ordered and presented to Mr. Howard at the next scheduled meeting.

The minutes for November 21, 2002 were unanimously approved.

Mr. Truglio arrived at 9:37 AM.

Mr. Cohan began discussion of the Annual Review. Mr. Tell noted that there are 2 individuals who are appointed, but not serving. He also mentioned that paperwork must be completed to be able to serve.

Changes to be made to the Annual Review were discussed and recommended as below:

#1—10 members serving, 2 appointed (cannot serve until paperwork completed), 1 vacancy

#6—A copy of the minutes approving the Sunset Review questionnaire is attached hereto

#7— A disc, saved as ASCII or Rich Text formats, of the County Manager's memorandum to the Board of County Commissioners is attached herewith

Mr. Piedra stated that the changes should be reflected in the next minutes

There was a roll call vote for the motion to accept the Annual Review as amended.

The vote was unanimous to accept the Annual Review of the Board as amended.

Roll call of the appellants and appellees was as follows:

Representing **Neptune Wholesale, Inc**

Stanley Price, 200 S Biscayne Blvd.
Ronald Book, PA, 2999 NE 191 St., Penthouse 6, Aventura, Fl.

Representing **Miami-Dade County Fire Dept.**

Donald James, Fire Prevention, Deputy Fire Marshal
Alton Sykes, Inspector

Representing **Best Condominiums**

Ineldo O'Reilly, Owner, Best Condominiums
Rey Regalado, Architect, Rey Regalado and Associates, Inc.

Representing **City of Miami Fire Department:**

Chief Virgil Fernandez, Fire Marshal

Representing **Miami Beach Watersports Center**
(Have not yet arrived)

Representing **Miami Beach Fire Department**

Charles Phelps, Safety Engineer
Captain Glenda Guise

The appellants and appellees were sworn in by the court reporter, Isabel Seralick.

Neptune Wholesale, Inc.

Stanley Price stated that **Neptune Wholesale, Inc.** was appealing the Fire Marshal's decision not to permit the use of an industrial structure for the storage of fireworks.

There appeal was based on their belief that there is a difference between the manufacturing and storage of fireworks. Their claim was that the 1998 NFPA contained an error, and the error was addressed in a letter presented as evidence. They further stated that the 2003 edition of the NFPA would acknowledge the difference between storage and manufacturing. Their letter submitted to the Fire Department, requesting reconsideration was rejected.

Ronald Book, PA, stated that the NFPA 1124 has been updated, and that it is illogical not to adopt the code and correct the error. He urged the board to approve the appeal and provide instruction for formal adoption.

Chief Donald James stated that the problem was separation distances between the stored fireworks. He further stated that the position of the Fire Department has been not to adopt a standard if there is a not a degree of equivalency. The NFPA 1124 revision does not provide for increase, but for a decrease of standards.

Chief Al Suarez, Fire Marshal Miami-Dade County Fire Department, was sworn in and stated that we do not adopt codes or standards. The Florida Fire Prevention Code identifies codes adopted by the State of Florida. He stated that the Fire Department provides an AHJ exception, and deal with code coming down the pipes.

Ms Figueroa Rodriguez stated that NFPA 1124, 1998 edition is the rule of law at this time.

Mr. Price stated that the standard has not relaxed, but that an omission has been recognized and corrected. "We say you have discretion based on admission of error".

Peter Tell noted that if the occupant stated that there would be over 100,000 pounds that would equate to 50 tons of fireworks stored and **Suzanne Gilmore** agreed with the calculation. **Mr. Tell** also stated that the letter provided by Neptune, from the NFPA, was not signed and might be hearsay.

Ms Figueroa-Rodriguez, Chief Stringer Mr. Gonzalez, Mr. Cohan, Mr. Truglio and Mr. Tell brought up various questions concerning whether or not the State of Florida would adopt the 2003 edition of the NFPA, whether the standard would be approved, the evaluation process, the homeland security issue and the length of time involved in code adoption.

Chief Suarez stated that we do not apply equivalencies; that we process, and are a regulatory agency. He also stated that the adoption of NFPA standards, which are developed by a private entity, goes through a process, and that they are not the only standards agency. Until adoption by the State of Florida, we will not use the 2003 code as a regulatory instrument.

Ms. Figueroa-Rodriguez noted that as a point of clarification—We are not—Do not accept, 1998 code as error. It was adopted by law. She also stated that she does not accept the letter that is assuming that there was an error.

The motion was made to deny the appeal. The motion was seconded by **Mr. Gonzalez**

The vote was unanimous to deny the appeal.

Best Condominiums

Note: Mr. Gonzalez is not participating

Mr. Cohan noted that it is a permitting issue.

Rey Regalado stated that their plan (2001) was approved under variance exception #2. They believe the plan meets requirements and are asking the board to review the matter. He stated that the building is a small, individual unit, and that the travel distance to the exit is 15 feet. They believe the changes in code took place after the plans were adopted. The 2nd stairs only recently became an issue. They have no space to work with, but are willing to try to work with the Fire Department and the Board in order to achieve completion of the project.

Chief Virgil Fernandez stated that he was not present for the plans revision. He stated that the Florida Fire Prevention Code had been modified. NFPA 30.2.4 specifically takes out exemption #2-a-e.

Ms. Figueroa-Rodriguez stated that we need copies of all modifications, etc, to be provided at the meetings.

Chief Virgil Fernandez stated that review resulted in him being denied, based on the modification.

Ms. Figueroa-Rodriguez: The building has one exit and is requiring two.

Mr. Cohan: Exception has been in the books for a long time.

Chief Virgil Fernandez: The building meets the exceptions. I do not know if I have authority to override.

Mr. Piedra: Can we get him to write the State of Florida?

Mr. Cohan: He was 6 months late in getting the permit

Mr. Piedra: Can the Fire Marshal defer him to the State to grandfather in?

Mr. Truglio: Was it in effect when he submitted his plans?

Chief Fernandez: The alarm and sprinkler meet all requirements—except for the code that was taken out. The 2000 edition of the FFPC was adopted and modifications took place. They designed thinking that all was correct. “I want to say yes, but cannot. This is not an amendment, it is a modification. I told him to appeal before the State or go before the board to see if he can get relief.

Mr. Cohan suggested an open corridor for safety. **Mr. McDonald** asked if the stairs were pressurized. **Ms. Figueroa-Rodriguez** asked if the modification was not in place, would the building meet LSC?

Mr. Cohan suggested that we defer and have Best Condos meet with an engineer.

Ray McDonald was in favor of making changes

There was a motion to grant a continuance and the motion carried.

Miami Beach Watersports, Inc.

Court reporter swore in **Ira Nisbaum, President**

Ronald Shane stated that they were a not-for-profit company that wanted to build a second story on their building. He stated that they are supported by Barry University, University of Miami and Miami Beach. The second floor would consist of 3 conference rooms or 1 banquet hall and 2 conference rooms. It would provide income to the Water Sports Center. There was to be a workout area and kitchen. It was not to be a nightclub or an auditorium with people packed in. They felt the Fire Marshal’s requirement of 7 sq. feet per person was inappropriate and that the originally planned 15 sq feet would be unnecessary. There are boats on the first floor, but no gas is used. It was designed for multi-use.

Capt. Guise stated that they tried to come up with solutions. The width of the main exit is an issue. The plan does show storage for tables. The Fire Department feels it cannot insure the capacity, so they went to the 7 sq feet.

Rick Gonzalez stated that the 15 factor is used with tables and chairs and multi-purpose goes with the most stringent 7.

Mr. Phillips We could not find a way to allow more than 7sq.feet.

Ms. Figueroa-Rodriguez : They can do what they want to. The Fire Department cannot insure.

Mr. Cohan: 7 is very dense application. It should be reserved for nightclubs.

Mr. Phillips There is no way to control. Business occupancy allows 15sq feet for conference rooms, multi-purpose requires 7.

Mr. Shane stated that they would not do anything to jeopardize their relations with Barry University and University of Miami or the City of Miami Beach.

Mr. Piedra felt uncomfortable/conflict of interest and excused himself.

Mr. Truglio asked how the meeting hall would be controlled. How do you keep people control?

Mr. Cohan asked the capacity and the architect stated that 477 persons is the maximum, including space for bathroom and showers.

Rick Gonzalez commented on the fact that the Board denied a bank's appeal because of the 2nd exit requirement.

Ms. Figueroa-Rodriguez: "We are saying you have open space—not fixed—however many people you want."

Mr. Shane stated that it is a city property with higher standards and contractual obligations.

Ms. Figueroa-Rodriguez made the motion to deny the appeal.

Rick Gonzalez stated that the key word is **"multi-purpose"**

The motion was seconded and the vote was to deny the appeal.

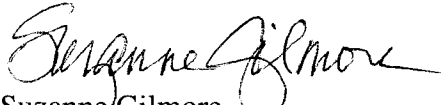
Ms. Figueroa-Rodriguez stated that the appellants and appellees need to bring documentation of code references. "Call and tell them to bring all documentation."

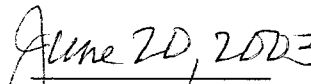
Ms. Gilmore: "We will continue to remind them."

Mr. Tell: "We are bound by law. Stop the testimony."

There was a motion to adjourn. The time was 12:00 AM

Fire Prevention and Safety Appeals Board


Suzanne Gilmore
Secretary


Date